

SHER TREMONTE LLP

May 6, 2024

BY ECF

Honorable Sarah L. Cave
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *Bennett v. Cuomo, et al.*, No. 22 Civ. 7846 (VSB) (SLC)

Dear Judge Cave:

We write to correct an error in our reply papers filed at ECF Nos. 238 and 239. In discussing *United States EPA v. General Electric Co.*, 197 F.3d 592 (2d Cir. 1999), we asserted that the underlying subpoena was issued in a New Jersey state court proceeding. That is not correct—the subpoena was issued in a federal action in New Jersey. Our arguments regarding the distinction between federal sovereign immunity and state sovereign immunity—including that a “judicial proceeding” triggers federal sovereign immunity while state sovereign immunity is triggered only by a “suit” that targets a state’s treasury and impinges on a state’s autonomy to a significant degree—still stand.

We sincerely apologize for the error.

Respectfully submitted,

/s/ *Theresa Trzaskoma*

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